

Form 4

The Joint Discovery/Case Management Plan and Proposed Scheduling Order

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
DIVISION**

Plaintiff,	§	
	§	
v.	§	Civil Action No. _____
	§	
Defendant.	§	
	§	

**JOINT DISCOVERY/CASE MANAGEMENT PLAN
UNDER RULE 26(F) OF THE FEDERAL RULES OF CIVIL PROCEDURE**

Restate each instruction in bold and furnish the requested information.

1. State where and when the parties held the meeting required by Rule 26(f). Identify the counsel who attended for each party.
2. List all related cases pending in any other state or federal court. Identify the court and case number. State the relationship.
3. Briefly describe what this case is about. Generally state the claims, defenses, and threshold issues that each party will likely assert.
4. Specify the basis of federal jurisdiction. Identify any parties who disagree and the reasons.
5. List any anticipated additional parties. Identify the party who wishes to add them, briefly explain why, and indicate a date by which to do so.
6. List any anticipated interventions. Briefly explain why.
7. Describe any class-action or collective-action issues. Provide the proposed definition of the class. Identify and state generally the basis for any opposition.
8. State whether each party represents that it has completed its Rule 26(a) initial disclosures. If not, indicate the date by which each party will do so and describe arrangements in that respect.
9. Apart from initial disclosures, specify other discovery served or accomplished to date.

10. Describe the proposed agreed discovery plan. At a minimum, include:
 - a. Responses to all the matters raised in Rule 26(f), including agreements reached concerning electronic discovery and any disputed issues relating to electronic discovery;
 - b. When and to whom the plaintiff anticipates it may send interrogatories, whether the Rule 33(a) limit of twenty-five per party should apply, and reasons for any requested adjustment.
 - c. When and to whom the defendant anticipates it may send interrogatories, whether the Rule 33(a) limit of twenty-five per party should apply, and reasons for any requested adjustment.
 - d. Of whom and by when the plaintiff anticipates taking oral depositions, whether the Rule 30(a)(2)(A) presumptive limit of ten depositions per side should apply, and reasons for any requested adjustment.
 - e. Of whom and by when the defendant anticipates taking oral depositions, whether the Rule 30(a)(2)(A) presumptive limit of ten depositions per side should apply, and reasons for any requested adjustment.
 - f. When the plaintiff (or the party with the burden of proof on an issue) can designate experts and provide Rule 26(a)(2)(B) reports, and when the opposing party can designate responsive experts and provide their reports.
 - g. List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date.
 - h. List expert depositions the opposing party anticipates taking and their anticipated completion date.
11. State the date by which the parties can reasonably complete the planned discovery.
12. If the parties disagree on any part of the discovery plan, describe the separate views and proposals of each party.
13. Discuss the possibilities for a prompt settlement or resolution of the case at your Rule 26(f) meeting. Identify such possibilities. Describe what each party has done or agreed to do to bring about a prompt resolution of this dispute.
14. Counsel to each party must discuss with their client the alternative dispute resolution techniques that are reasonably suitable to this case. Identify such potential techniques. State when the parties may effectively use any such technique.
15. A Magistrate Judge of this Court may now hear jury and nonjury trials. Indicate the parties' joint position on a trial before a Magistrate Judge.

16. Identify any party that has made a jury demand and whether it was timely.
17. Specify the number of hours it will likely take to present the evidence at trial in this case.
18. List pending motions the Court could resolve at the Scheduling Conference.
19. List other pending motions.
20. List all other matters that deserve attention of the Court at the Scheduling Conference.
21. Complete and attach a proposed scheduling and docket control order where necessary to suggest modifications to the Court's standard order. Clearly indicate any disagreements with reasons in support of the requests made.
22. Certify that all parties have filed the Disclosure of Interested Persons as directed in the Order for Conference and Disclosure of Interested Persons, listing the date of filing for original and any amendments.
23. List the names, bar numbers, addresses, telephone numbers, and e-mails of all counsel and unrepresented parties.

Respectfully submitted,

Date

[Plaintiff Signature Block]

Date

[Defendant Signature Block]

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
_____ DIVISION**

Plaintiff,

v.

§
§
§
§
§
§
§
§
§

Civil Action No. _____

Defendant.

SCHEDULING ORDER

The disposition of this case will be controlled by the following schedule:

- 1. _____ **MOTIONS TO ADD NEW PARTIES**
The party causing the addition of a new party must provide copies of this Order and all previously entered Orders to the new party.
- 2. _____ **MOTIONS FOR LEAVE TO AMEND PLEADINGS**
Any party seeking leave to amend pleadings after this date must show good cause.
- 3. _____ **EXPERTS (other than attorney’s fees)**
The party with the burden of proof on an issue must designate expert witnesses in writing and provide the required report under Rule 26(a)(2).

_____ The opposing party must designate expert witnesses in writing and provide the required report under Rule 26(a)(2).
- 4. _____ **COMPLETION OF DISCOVERY**
Discovery requests are not timely if the deadline for response under the Federal Rules of Civil Procedure falls after this date. Parties may continue discovery beyond the deadline by agreement.
- 5. _____ **PRETRIAL MOTIONS DEADLINE (except for motions *in limine*)**
No motion may be filed after this date except for good cause.

6. _____ **MEDIATION OR SETTLEMENT CONFERENCE**
Mediation or other form of dispute resolution must be completed by this deadline.
7. _____ **JOINT PRETRIAL ORDER AND MOTION *IN LIMINE* DEADLINE**
The Joint Pretrial Order will contain the pretrial disclosures required by Rule 26(a)(3) of the Federal Rules of Civil Procedure. Use the forms provided on the Court’s website. <https://www.txs.uscourts.gov/page/united-states-district-judge-drew-b-tipton>. Plaintiff is responsible for timely filing the complete Joint Pretrial Order. Failure to do so may lead to dismissal or other sanction in accordance with the applicable rules. Exhibit lists, witness lists and proposed deposition excerpts may not be amended or supplemented after this date unless by agreement. Objections to any of these shall be filed no later than three business days after this date and responses to those objections shall be filed no later than six business days from this date.
8. _____ **DOCKET CALL**
Docket Call will be held at 2:00 p.m. The Court will not consider documents filed within seven days of docket call. The Court may rule on pending motions at docket call and will set the case for trial as close to docket call as practicable.
9. Additional orders relating to disclosures, discovery, or pretrial motions:

Any party wishing to make a discovery or scheduling motion must obtain permission before the submission of motion papers. This includes any motion to compel, to quash, for protection, or for extension. Lead counsel must personally confer on all discovery and scheduling disputes as a final attempt at resolution prior to involving the Court. To obtain permission, the party seeking relief must submit a letter not exceeding two pages. Identify the nature of the dispute, outline the issues, and state the contested relief sought. Describe the conference between lead counsel and summarize the results. Send a copy to all counsel and unrepresented parties. The opposing party should promptly submit a responsive letter of similar length identifying any disagreement. Do not submit a reply letter. The foregoing letters should be sent by email to the Court’s case manager, Kellie Papaioannou at Kellie.Papaioannou@txs.uscourts.gov.

The parties agree to submit attorney’s fees issues to the Court by affidavit after resolution of liability and damages.

It is SO ORDERED.

Signed this ____ of _____, 2020.

DREW B. TIPTON
UNITED STATES DISTRICT JUDGE